Application No. 09/624,076
Art Group Unit 3624

DECLARATION UNDER 37 C.F.R. 1.132

I, Jeremy Sanders, residing at 101 East 81st Street, #711, New York, NY, 10024, declare as follows:
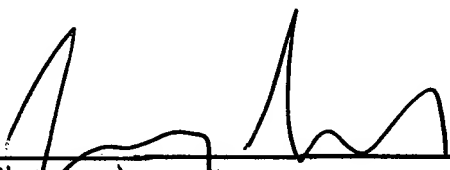
1. I have been requested by Scott Nieboer of 5th Market, LLC to give my opinion, as one of ordinary skill in the art of computerized/electronic trading of securities, as to whether I could practice the invention described in the above-identified 09/624,076 patent application with no more than routine experimentation, and my resume' of education, and work experience that qualify me to give such an opinion is attached hereto as Exhibit A;

2. I am not employed by, nor do I have any ownership interest in 5th Market, LLC nor the above-identified patent application;

3. I have studied the specification and claims of the 09/624,076 application, and I have received no further information or explanations of its content;

4. Based solely on the reading of the 09/624,076 application I understand that one aspect of the invention described therein is the processing of conditional orders defined by algorithms in a computer-assisted method;

5. That any team of financial professionals of ordinary skill could determine those algorithms from the data provided in Table A-1 to A-4 on pages 7 to 9 of the 09/624,076 specification and the associated description thereof;

6. That determination of those algorithms would be routine for one of my experience and education, and others of ordinary skill in the financial profession;

7. That using those algorithms as a framework, such a team of financial professionals could write software to perform a computer-assisted process for the establishment and maximization of the sale prices of a generic set of fungible items comprising the steps of: conducting a primary auction for the sale of the generic set of fungible items based on purchase orders at fixed prices and/or conditional orders at prices contingent upon the sale of items in a second set of fungible items; simultaneously conducting a secondary auction for the sale of

said second set of fungible items, and completing sales in the primary auction based on sales results in the secondary auction thereby establishing and maximizing the sales price of said generic set of fungible items as an interdependent function of sales prices of the second set of fungible items using a computer;

8. That writing of that software would be routine for such a team, and could be done with no more than routine experimentation to practice the methods defined by the claims of the 09/624,076 application;

9. That such software could be run on various commercially available digital computers;

10. That my letter, Exhibit B, attached hereto supplements and is consistent with my averments of paragraphs 5 to 9 above;

11. That, I, the undersigned, being hereby warned that willful false statement and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any resulting registration, declare that the facts set forth in this Declaration are true; all statements made of my own knowledge are true; and all statements made on information and belief are believed to be true.
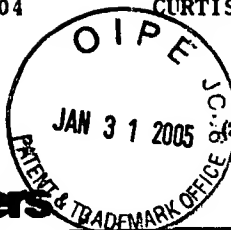
_____
(Signature)

__Jeremy Sanders, Senior Consultant__
(Print or Type Name and Position)

_____1/24/05_____
(Date)

Attachments: Exhibit A – Resume'

Exhibit B – Letter

301-652-6238

Exhibit A

101 West 81st Street #711 • New York, NY 10024
(212) 595-4211 • Fax (212) 496-6426 • Cell (817) 856-5074
jeremyds@bellatlantic.net

Jeremy Sanders

Summary

Solid technology background in financial services including significant management roles across an unusually broad mix of both Application Development and Systems Infrastructure disciplines. Strong analytical and problem solving capabilities augment in-depth understanding of business, technical, and financial facets of issues. Proven track record in delivering results, integrating merged operations, reducing costs, and turn-around situations.

Experience

Consultant • 2001 - Present

Working both independently and in conjunction with established consulting agencies, provided consulting services to organizations in two main categories:

- In Technology Infrastructure and Market Data in the areas of Systems Reliability, Expense Management, and Outsourcing for Financial Firms
- On Overall Technology Strategy and Penetration of the Financial Services market for Technology Firms

Recent Clients and Partners include:
ABN/Amro, XOsoft Inc, EDS, Activ Financial, PTS Consulting, Uni-Data Consulting, The Spom Group

Merrill Lynch • Director • 1999 – 2001

CICG Global Application Infrastructure; Area Manager

Responsible for Corporate and Institutional Client Group (Debt, Equity, Sales, Investment Banking, Research) application infrastructure. Approximately 200 staff (170 direct + 30 matrix) engaged in Market Data, Middleware, Messaging, Database Administration, Application Packaging, Desktop Configuration Standards, Software Distribution and Tracking, and Development Standards. Launched Projects:

In Desktop Engineering, to reduce Desktop Operations headcount by 150, saving ~ $15 million:
- Standardize desktop configurations and Deploy Windows2000
- Implement global software packaging and distribution
- Centralize (and partly outsource offshore) application integration testing

In Database Operations, to reduce headcount by 50, saving ~ $8 million:
- Reduce multiple database products, realign teams from technology focus to business focus
- Standardize database design and create operations team with selected database operations offshore

In Market Data:
- Created plan to reduce data (market data & library) expenses by $20 million in FY2001
- Chaired plan to reduce FY2001 other direct business technology-related expenses by $20 million

Global Market Data; Department Manager

Tasked with merging separate regional and business-aligned groups into global team. 40 Direct staff (10 person global firm-wide market data strategy team and 30 person U.S. CICG operations and development team) and approximately 40 matrix reports (Europe & Far East regions, Asset Management & Private Client businesses). Projects included:

- Revamp of failing market data tracking and business processes across all business and regions
- Negotiated vendor extension contracts with Reuters and Dow Jones saving over $4 million
- Helped bring in new vendor for International Private Client Group saving $5 million
- Implemented emergency Open Bloomberg conversion project of over 5000 machines globally in 4 months
- Stabilized failing Tibco & Triarch infrastructures
- Reviewed market data usage in Equity & Debt saving ~ $15 million.

Lehman Brothers • Vice President • 1985 – 1999

Middleware and Market Data; Department Manager

In re-organized combined infrastructure department, retained management of Market Data department and took on "turn-around" challenge of managing the Middleware team. Total direct staff of 55 (plus 20 overseas matrix).

- Re-oriented struggling internally developed proprietary Middleware system to employ industry standards, with CORBA as the interface mechanism and XML as the data layer.

Jeremy Sanders

Systems Administration (Americas) and Market Data; Departments Manager

Assumed additional responsibility for managing all firm distributed systems equipment in the Americas region, both desktop and server. Equipment was overwhelmingly Sun and Windows NT. Direct staff including continuing responsibility for Market Data of 145.

- Achieved average ratios in "standard" service areas (including brokers and investment bankers) of 200 desktops to S/A, and 125 desktops per S/A in trading and sales.

Market Data; Department Manager

Responsible for all Market Data issues in Americas; Over-all coordinator for Global Market Data, Supports end-user base of 3000+ financial professionals; Direct staff of 35, with additional 13 dotted-line staff overseas.

- Merged separate development, vendor management, Fixed Income, Equities, Retail Brokerage and Investment Banking teams and developed common strategy and policies.
- Lead expense management effort for Data expenses, trimming $30 million annual.

Concurrently: Many other projects including technology setup for newly formed Asset Management team

Global Market Data Strategy; Project Manager

Developed Market Data distribution technology strategy for firm on a global basis, using a mix of internally developed and vendor purchased components. Strategy encompassed receipt and distribution of data to both display and proprietary analytic applications. Staff of 12.

- Using tools selected or developed as part of overall strategy; delivered system displaying fixed income data to over 1500 fixed income, equities, and derivative traders and salespersons in 23 global locations from primary distribution sites in New York, London, Tokyo, and Hong Kong.
- Supported development of 50+ proprietary applications using globally uniform API.

Concurrently: Many other projects including technology appraisal for Derivatives area

Branch Systems; Project Manager (Promoted to Vice President)

Integrated on to a single workstation platform a variety of applications developed for specific trading and sales desks, for use by more generalist branch sales force. Staff of 20 in 3 teams: Integration Testing, Deployment, and Development. Created firm's first integration testing environment for distributed systems.

- Deployed integrated applications package to 150 salespeople in 5 largest institutional sales branches.

Neural Networks Research; Project Manager

Proposed research into capabilities of Neural Networks and other adaptive artificial intelligence techniques to analyze and predict market movements. Received $2 million in special R&D funding for project and hired team of "rocket scientists."

- Developed trading models for a number of futures markets using Neural Networks.

Concurrently: Helped manage all R&D proposals, gaining several million in additional annual funding

Fixed Income Systems Architect

Reviewed designs and plans for systems encountering implementation difficulties; produced recommendations for systems including: Government Decision Support, OTC Equities, Government Trade Capture, OTC Options, Multi-Market trading, Money Market Preferred, Government Sales Analysis.

Assembled and presented capital budget for entire area.

Money Market System; Project Leader (Promoted to Assistant Vice President)

Directed overall technical design of PC-based distributed Money Market trading system. System deployed to 120 traders and salesperson in 6 cities supporting trade volumes of ~ $12B / day. Proposed, planned and led phased conversion of PC-based system to Sun workstation architecture.

Money Market System Programmer/Analyst

Designed and developed programs for: synchronization of individual workstations with master server, maintenance of rate bid runs, provision of fault tolerant backup server for master server, financing of inventory, etc. Assumed responsibility for direction of systems programming team.

Jeremy Sanders

Philon, Inc. • Compiler Designer • 1985 - 1986

Developed all run-time components of a multi-architecture Unix RPG II compiler.

Education

Yeshiva University, BA, 1985, Computer Science

Other Professional Activities

- Series 7 & 63 Certification
- Board Member, Fourfold Technology, 1998
- Board Member, Neptunenet, 2000

- Co-Chair, SIA Year 2000 Market Data Test
- Chair, Financial Information Services of the SIIA
- Founder & Chair of MDDL (XML for Market Data)

Exhibit B

GOTHAM CONSULTING

101 West 81 Street, Suite #711, New York NY 10024
(212) 595-4211; Fax (212) 496-6426
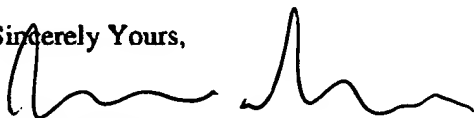
Jeremy Sanders
Senior Consultant

Dear Commissioner,

I have carefully reviewed and analyzed the documents explaining the proposed "Double Dutch Auction" invention. It is my opinion, based on my past experience leading technology teams that have designed and implemented financial trading applications, that an application and system to implement the proposed invention could readily be accomplished.

While the algorithms required to implement the allocation of securities in linked primary and secondary auctions (as well as the possible tertiary auction) would be of at least a medium order of complexity, they are of significantly lower order of complexity than many algorithms implemented on a regular basis in the financial community. In practice, I believe virtually any reasonably skilled team of financial technology professionals with the proper experience could create the allocations engine part of system for the "Double Dutch Auction" in a just a few weeks of programming time.

Therefore, I recommend that there should be no impediment to granting this application based on ability to implement.

Sincerely Yours,

Jeremy Sanders